

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

TAWNYA MICHAEL,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Case No. 4:05CV02400 ERW
	)	
AMERICAN INT'L GROUP, INC. et al.,	)	
	)	
Defendants.	)	

**MEMORANDUM AND ORDER**

This matter comes before the Court on a status conference. On June 20, 2006, this Court issued an order staying the case for 150 days to allow for completion of the administrative review of Plaintiff's Employee Retirement Income Security Act ("ERISA") disability benefit claim. The Court's Order granted Plaintiff sixty days to submit any additional information to Disability Reinsurance Management Services, Inc. ("DRMS") in support of her benefit claim and appeal. Thereafter, within forty-five days, or up to a maximum of ninety days if special circumstances required additional time, Defendants were ordered to review Plaintiff's additional information, conduct any investigation and render a final benefit determination. On November 28, 2006, the Court ordered the parties to submit a status report. The parties disagreed as to why the case was not moving forward.

On December 28, 2006, the Court issued a show cause order why the case should not be dismissed without prejudice. Plaintiff filed a response stating that the pending appeal, before the Eighth Circuit, of this Court's June 20, 2006 Order denying an injunction to enforce ERISA's minimum requirements for an administrative appeal, divested this Court of jurisdiction to Dismiss Count II of Plaintiff's Complaint. On January 10, 2007, the Eighth Circuit granted appellees' joint

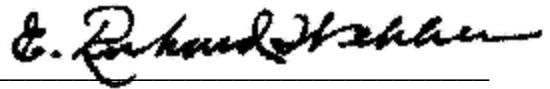
motion to dismiss the appeal. As to Count III of Plaintiff's Complaint, Plaintiff claims that this Court maintained jurisdiction to consider the issue of the denial of disability benefits as Defendants have failed and refused to issue a final benefit determination. On January 23, 2007, this Court conducted a status conference to further consider this matter.

During the status conference, counsel stated that Defendants did not render a final benefit determination on Plaintiff's benefit claim because Plaintiff failed to submit additional information to DRMS in support of her appeal, as required by this Court's June 20, 2006 order. In response, Plaintiff claims that she had already submitted all of the requisite information and did not have any additional information or documents to submit to DRMS.

Though it would have been beneficial to all parties if Plaintiff informed DRMS that she did not intend to submit additional information, the Court's Order did not require her to do so. At the end of the sixty-day period (August 21, 2006), however, the Court did direct Defendants to review Plaintiff's submissions, conduct any additional investigation and render a final benefit determination. Defendants' review of Plaintiff's benefit claim was to commence on or about August 21, 2006, regardless of whether Plaintiff submitted additional information. To date, Defendants have not submitted any evidence to the Court showing that it rendered a final decision on Plaintiff's benefit claim. Consequently, Plaintiff "shall be deemed to have exhausted the administrative remedies available under the [group disability insurance] plan" and may now seek relief in this Court. *See* 29 C.F.R. §2560.503-1(l).

**IT IS FURTHER ORDERED** that the parties shall submit to this Court a joint proposed scheduling plan for the Court's consideration, no later than March 2, 2007.

**So Ordered this 20th Day of February, 2007**

A handwritten signature in black ink, appearing to read "E. Richard Webber", written over a horizontal line.

E. RICHARD WEBBER  
UNITED STATES DISTRICT JUDGE